

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

BRITTANY D. CRAWFORD,
and on behalf of L.C.,
her infant daughter,

Plaintiffs,

v.

Civil Action No. 2:11-0777

UNITED STATES POSTAL SERVICE,

Defendant.

MEMORANDUM OPINION AND ORDER

On October 20, 2011, plaintiff instituted this action individually and on behalf of L.C., her infant daughter, arising out of a vehicular-pedestrian incident on November 10, 2010. On July 3, 2012, plaintiffs moved for settlement approval and the appointment of a guardian ad litem.

The court appointed William W. Pepper as the guardian ad litem for the infant plaintiff L.C. On or about July 17, 2012, the court received the answer of the guardian ad litem, which reflected, in part, as follows:

Since the minor received no injury, was not contacted by the subject motor vehicle and because her mother received only minimal injuries, then the allocation of some minimal, inconsequential amount to the child under some theory would not seem to promote the ends

of justice nor result in any meaningful benefit to the child under the circumstances of this case.

(Ans. at 1). It is ORDERED that the guardian ad litem be, and he hereby is, directed to file his answer previously submitted in the case.

On July 18, 2012, the parties appeared for an infant summary proceeding. Counsel for both parties, along with the guardian ad litem, confirmed that the infant plaintiff would receive nothing under the terms of the settlement inasmuch as she suffered no apparent compensable injury.

Having noted, as represented by counsel for all parties and the guardian ad litem, that no injury and no intended disbursement of settlement funds was proposed for the infant, the court invited the parties to study the matter anew, with the option thereafter of either proposing a monetary settlement for the infant or instead filing an amended complaint that, in effect, dropped the infant's claims in the case.

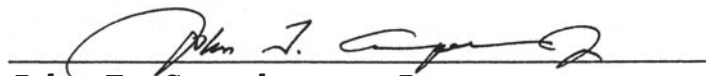
On July 18, 2012, an amended complaint was filed that dropped the infant as a party, naming only Brittany Crawford as a plaintiff. An order filing the complaint was not necessary inasmuch as the defendant had not been served with process. Fed. R. Civ. Proc. 15(a)(1).

Consequently, this action as to the infant plaintiff, L.C., is ORDERED dismissed without prejudice.

It is further ORDERED that, in accordance with the agreement of the parties, the fee of the guardian ad litem, William W. Pepper, is fixed as \$500 to be paid by the defendant.

The Clerk is directed to transmit a copy of this written opinion and order to counsel of record and the guardian ad litem.

ENTER: September 20, 2012


John T. Copenhaver, Jr.
United States District Judge